



Concept Note:

Socio-Economic Rights in a Time of Austerity: A Panel Debate in Recognition of the Monitoring of Progressive Realisation of Socio-Economic Rights Project.

Section 10 of the South African Constitution guarantees to all inherent dignity and the right to have their dignity respected and protected.

Sections 26 and 27 of the Constitution guarantee to all the right of access to adequate housing, health care services, sufficient food and water, and to social security. These socio-economic rights are contained in the Bill of Rights of the Constitution. They are the means by which the inherent rights to equality, dignity are to be achieved, and the transformational aims of the Constitution, realised. Section 7 (2) of the Constitution clearly places on the state the obligation to 'respect, protect, promote and fulfil the rights in the Bill of Rights'.

These transformative rights are however subject to an internal limitation that directs that the 'state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights'.

Many question the very slow rate of positive progress in the reduction of poverty and inequality in South Africa since 1994. The 2017 Poverty Trends report issued by Statistics South Africa clearly demonstrated the absolute increase in the poverty rates and levels of inequality, specifically since 2011. This flies brazenly in the face of the democratic dividend expected to benefit all since 1994.

In 2015, South Africa ratified the UN ICESCR. This Covenant guarantees the rights of access to a broader range of socio-economic rights than contained in our final constitution, including the rights to work and the all encompassing right to an adequate standard of living. Although South Africa only ratified this Covenant in 2015, in fact President Mandela signed the Covenant at the United Nations in 1994 – well before the adoption of our final Constitution.

South Africa's commitment to realising everyone's human rights is well recognised. Still today, our constitution is hailed as one of the most progressive constitutions globally. So the question must be faced: how have we allowed ourselves to arrive at a space and place in which the majority of South Africans do not have sufficient to survive on, let alone even dream of their dignity being respected

and protected or fulfilled, and yet at the same time we live in an upper – middle income country, whose inequality levels rate us amongst the highest in the world. The most progressive, justiciable Constitution is the highest law of the most unequal land in the world?

As we approach the sixth democratic administration in 2019, we face unsettling questions about what governs and determines our commitment to transformation. Many reasons exist and are raised to explain this contradiction, including the impact of a state administration built on Bantustan legacies, the capture of state resources and allocations, etc. These are not empty excuses, but they are not sufficient to justify our regression, and the failure of any oversight bodies to take cognisance of how the Constitution can and should be used to address this. The annual tabling of the budget provides ample chance for Parliament to call the Executive to justify why the reach and breadth of the rights of access to socio-economic rights is regressing and not progressing.

State resources to realise its mandates rely on fiscal take, being adequately distributed. Many have argued for a long time that the scope to increase the fiscal take exists in order to fund the state, should be better exploited. In the face of South Africa's growing inequality and poverty, the choice by the state in February 2018 to increase Value Added tax – a flat rate, regressive tax- stunned millions of people who believed that the reconfigured state machinery was finally going to direct itself to assisting in the realisation of a decent life for all.

We are indeed in a period of conflicting demands. We continue to be fed the GEAR line of neo-liberal 'trickle- down' economics – of mothballing transformation until we have sufficient economic growth – although this theory has been rejected roundly by many, including its former advocates, the World Bank and the International Monetary Fund. People are tired of struggling to exist, and of feeling that leadership is just about a division of the spoils amongst the elites. What kind of messaging can we expect to receive for the next five years?

In recognition of the ground-breaking work undertaken by Studies in Poverty and Inequality Institute and its partners, the South African Human Rights Commission, the Ford Foundation and the Foundation for Human Rights, in the development of a Monitoring system for the Progressive Realisation of Socio-Economic Rights since 2010, we invite you to a sterling panel discussion of participants who are not afraid to debate this difficult dialectic.

Panel: ALL TO BE CONFIRMED

Facilitator: Isobel Frye, Director: Studies in Poverty and Inequality Institute.